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9 Construction, Inc.; A.G. Spanos
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10 Land Company, Inc.; A.G. Spanos
Management, Inc., The Spanos Corporation
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 National Fair Housing Alliance, Inc., et al.,)	CASE NO. C07-03255-SBA
)	
15 Plaintiffs,)	AMENDED NOTICE OF MOTION
)	AND MOTION OF A.G. SPANOS
16 vs.)	CONSTRUCTION, INC.; A.G.
)	SPANOS DEVELOPMENT, INC.; A.G.
17 A.G. Spanos Construction, Inc., et al.)	SPANOS LAND COMPANY, INC.;
)	A.G. SPANOS MANAGEMENT, INC.,
18 Defendants.)	AND THE SPANOS CORPORATION
)	TO STRIKE VARIOUS CLAIMS FOR
)	RELIEF SOUGHT IN PLAINTIFFS'
)	FIRST AMENDED COMPLAINT

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20 [Fed. R. Civ. P. 12(f)]

21 Hearing Date: March 11, 2008
22 Time: 1:00 p.m.
23 Dept.: Courtroom 3

24 Complaint Filed: June 20, 2007

25 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

26 **PLEASE TAKE NOTICE** that on March 11, 2008, at 1:00 p.m., or as soon thereafter
27 as this matter may be heard, in Courtroom 3 of the above-entitled court, located at 1301 Clay
28 Street, 3rd Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc., A.G.

Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos Management, Inc., and The Spanos Corporation (“Defendants”) will and hereby do move this court, pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, for an order striking various claims for relief sought by Plaintiffs National Fair Housing Alliance, Inc., Fair Housing of Marin, Inc., Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing Continuum, Inc. (“Plaintiffs”).

The basis of this Motion, as set forth more fully in the Memorandum of Points and Authorities, filed on December 21, 2007, is that:

- I. PLAINTIFFS’ REQUEST FOR DAMAGES SHOULD BE STRICKEN BECAUSE DAMAGES ARE NOT RECOVERABLE BY THESE PLAINTIFFS.
- II. PLAINTIFFS’ REQUEST FOR PUNITIVE DAMAGES SHOULD BE STRICKEN BECAUSE PUNITIVE DAMAGES ARE NOT RECOVERABLE AS A MATTER OF LAW.
- III. PLAINTIFFS’ REQUEST FOR INJUNCTIVE RELIEF REGARDING ALL APARTMENTS PREVIOUSLY BUILT SHOULD BE STRICKEN BECAUSE PLAINTIFFS HAVE FAILED TO STATE A CLAIM FOR SUCH RELIEF.
 - A. Plaintiffs Have Failed to State a Claim for Injunctive Relief Because Plaintiffs Have Not Named the Owners, Renters, and Secured Lenders of the Subject Properties.
 - B. Plaintiffs Have Failed to State a Claim for Injunctive Relief under the FHAA Against the Spanos Defendants Because Plaintiffs Fail to Allege That the Spanos Defendants Actually Denied, or Could Actually Deny, a Rental to Anyone.
- IV. THOSE PORTIONS OF PLAINTIFFS’ FIRST AMENDED COMPLAINT THAT SEEK RELIEF BARRED BY THE STATUTE OF LIMITATIONS SHOULD BE STRICKEN.
- V. PLAINTIFFS’ CLAIMS FOR RELIEF BASED ON THE UNTESTED AND UNKNOWN PROPERTIES SHOULD BE STRICKEN BECAUSE PLAINTIFFS COULD NOT HAVE SUFFERED INJURY CAUSED BY TESTING UNTESTED OR UNKNOWN PROPERTIES.

This Motion will be based upon this Amended Notice of Motion and Motion, the Memorandum of Points and Authorities in support of this Motion, the Request for Judicial Notice in support of this Motion, and the pleadings, orders, records and documents on file in this case, as well as such oral and documentary evidence as may be properly presented at the

1 time of the hearing on this Motion. Opposition, if any, to the granting of the motion must be
2 served and filed not less than twenty-one (21) days before the hearing date. If the party against
3 whom the motion is directed does not oppose the motion, that party must file with the Court a
4 Statement of Non-opposition within the time for filing and serving any opposition. *See* Local
5 Rule 7-3(a) and 7-3(b).

6 Dated: January 7, 2008

FREEMAN, D'AIUTO, PIERCE, GUREV,
KEELING & WOLF

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8 By 

LEE ROY PIERCE, JR.

9 Attorneys for Defendants A.G. Spanos
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11 Inc.; A.G. Spanos Land Company, Inc.; A.G.
12 Spanos Management, Inc., The Spanos
13 Corporation
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